



THE ASSAM GAZETTE

অসাধাৰণ

EXTRAORDINARY

প্ৰাপ্ত কৰ্তৃত্ব দ্বাৰা প্ৰকাশিত

PUBLISHED BY THE AUTHORITY

নং 658 দিশপুৰ, শুক্ৰবাৰ, 30 ছেপ্টেম্বৰ, 2022, 8 অহিন, 1944 (শক)
No. 658 Dispur, Friday, 30th September, 2022, 8th Asvina, 1944 (S. E.)

GOVERNMENT OF ASSAM

ORDERS BY THE GOVERNOR

DEPARTMENT OF HOUSING AND URBAN AFFAIRS

NOTIFICATION

The 28th September, 2022

No.UDD(T)270/2022/26.- Whereas, the lands are reserved for public amenities, social facilities and utilities in the Master Plans which are being prepared under section 9 of Assam Town and Country Planning Act,1959.

And whereas, the Assam Notified Urban Areas (Other than Guwahati) Building Rules, 2014 has been notified by the Government vide Notification No. UDD(T) 42/2008.vol-2/116 dated 20th February, 2014 in which the provisions of "Additional Floor Area Ratio (FAR) scheme" are included at rule 85 of the Assam Notified Urban Areas (Other than Guwahati) Building Rules, 2014.

And whereas, it is necessary to allow the fair compensation for the lands reserved for public amenities, social facilities and utilities in the Master Plans prepared under the provisions of Assam Town and Country Planning Act, 1959 by granting "Transferable Development Rights".

And whereas, in view of the above, the Government felt it necessary to reform the existing said regulations of "Additional Floor Area Ratio (FAR) scheme".

And whereas, Government of India, has identified formulation and implementation of a Transferable Development Rights (TDR) policy for achieving planned urban development.

And whereas, the Master Plan of Towns requires to be modified and to include certain changes in the Master Plan like CBD area, Non-CBD area, conservation zones, densification zones etc. and to formulate this policy as a tool for urban development within the State of Assam.

As per Sub-section (e) of Section 11 and 14 of Town and Country Planning Act, 1959 for making necessary inclusion and modification in the Master Plan of towns of Assam previous publication is required and accordingly the draft Transferable Development Rights (TDR) Policy for Assam has been published vide Government notification No. UDD(T)270/2022/6, dated 16th August 2022 in the Assam Gazette, dated 17th August 2022, inviting objections or suggestions within a period of 10 days from the date of publication in the Official Gazette.

And whereas objections/suggestions received from persons/organisations have been suitably incorporated in the policy.

The policy shall extend to all the master plan areas of Assam except for areas under Guwahati Metropolitan Areas and areas under Autonomous Districts:

Provided that if any District Council desires that all or any of the provisions of this policy should apply to the Autonomous District concerned, a notification may be issued to that effect and this policy shall then extend to that Autonomous District subject to such exceptions or modifications as may be specified in the notification.

Now, the Governor of Assam is hereby pleased to enunciate the following State Policy for grant of Transferable Development Rights in the State of Assam, namely:-

ASSAM STATE POLICY FOR GRANT OF TRANSFERABLE DEVELOPMENT RIGHTS**1. TRANSFERABLE DEVELOPMENT RIGHTS -**

Transferable Development Rights (TDR) is a compensation in the form of Floor Area Ratio (FAR) or Development Rights which shall entitle the owner for construction of a built-up area subject to provisions in this Policy. This FAR credit shall be issued in a certificate which shall be called as *Development Right Certificate* (DRC).

Development Rights Certificate (DRC) shall be issued by Authority and endorsed thereon in writing in figures and in words, the FAR credit in square meters of the built-up area to which the owner or lessee is entitled, the place from where it is generated, and the rate of that plot as prescribed in the Circle Rates issued by the Revenue Department for the concerned year. Such Development Rights Certificate (DRC) will be issued by the Authority.

Authority shall mean Development Authorities and where there is no Development Authority, Authority as defined in the Assam T&CP Act shall apply.

Trading or Transfer of TDR shall be limited to the boundary of the Master Plan Area.

2. CASES ELIGIBLE FOR TRANSFERABLE DEVELOPMENT RIGHTS (TDR): -

Compensation in terms of *Transferable Development Rights* (TDR) shall be permissible for-

- i. Lands under various reservations for public purposes, new roads, road widening etc. which are subjected to acquisition, proposed in Draft or Final Master Plan, prepared under the provisions of the Assam Town and Country Planning Act, 1959 or GMDA Act;
- ii. Lands reserved for the purpose of development of public amenities, solid waste processing sites, Septage management site, site for water supply under any Regulation or as reserved in Master Plan prepared as per the provisions of Assam Town and Country Planning Act, 1959 or GMDA Act 1985 or GMC Act 1969 or Assam Municipal Act 1956.
- iii. Unutilized FAR of any structure or precinct which is declared as a Heritage structure under any Regulations or as marked in the Master Plan.
- iv. In lieu of constructing Affordable Housing.
- v. Conservation or restricted area zones as earmarked in the Master plans prepared under Assam Town and Country Planning Act, 1959 or GMDA Act 1985, will be treated as TDR emanating zones only.
- vi. Plots falling under Water bodies will get the benefit of TDR and thereafter, the ownership of the plot will directly be transferred to the Government and will be treated as TDR emanating zones only.
- vii. All zones in Master Plan shall be TDR emanating zones and Zones except restricted area zones, conservation zones, water bodies where development is not allowed shall be TDR receiving zones or as earmarked in the master plan.

3. CASES NOT ELIGIBLE FOR TRANSFERABLE DEVELOPMENT RIGHTS (TDR): -

It shall not be permissible to grant *Transferable Development Rights* (TDR) in the following circumstances: -

- i. For earlier land acquisition or development prior to notification of this policy.
- ii. If the compensation in the form of FAR / or by any means has already been granted to the owner.
- iii. Where lawful possession by mutual agreement /or contract has been taken by the Government.
- iv. Beyond the jurisdiction of the Master Plan Area.

4. GENERATION OF THE TRANSFERABLE DEVELOPMENT RIGHTS (TDR) –

4.1 Transferable Development Rights (TDR) against surrendered land: -

- 4.1.1 For Surrender of the land which is free of cost and free from all encumbrances, the owner shall be entitled to TDR or DR irrespective of the FAR permissible in the area at the rate as given below: -

Area Designated on Master plan	Entitlement for TDR/DR
Non-CBD Area	2times the area of surrendered Land
CBD Area	3times the area of surrendered Land

Note: CBD Area: Central Business District (CBD) is that part of the city that contains the principal commercial streets. The area is characterized by a concentration of commercial land use with a high number of commercial offices, retail shops, and services such as finance and banking. The CBD area shall be marked in the master Plan or as notified by the Authority.

(Explanation: Above entitlement may also be applicable to the owner as compensation paid in the form of FAR to the owner to be utilised on unaffected part of the same land parcel and in such cases the procedure of DRC shall not be insisted.)

(a) *Provided that*, if leveling of land and construction/erection of the compound wall/fencing as per Clause No. 4.1.2 to the land under surrender is not permissible as per the prevailing Development Control Regulations, the quantum of TDR shall be reduced to 1:1.85 and 1:2.85 in the non-CBD area and CBD area respectively.

(b) *Provided also that* Additional / incentive *Transferable Development Rights* (TDR) to the extent of 10%, 8%, 5% and 3% of the surrendered land area shall also be allowed to the land owners who submit the proposal for grant of *Transferable Development Rights* (TDR) within 1, 2, 3 years and 5 years from this notification respectively.

(c) The TDR shall be increased by 10% if used for construction of Affordable Housing. Affordable Housings are those as defined in existing building rules/bye-laws, subject to a ceiling of maximum FAR of 325.

- 4.1.2 DRC shall be issued only after the land is surrendered to the Authority, free of cost and free from encumbrances, and after constructing/erecting a brick/stone wall up to 0.60 metre above ground level, at the cost of the owner and to the satisfaction of the Authority, *provided that*, if on certain lands such construction/erection of compound wall/fencing is prohibited or restricted by any Regulation, then the quantum of *Transferable Development Rights* (TDR) shall be reduced as prescribed in the proviso to Clause 4.1.1(a).

- 4.1.3 If any contiguous land of the same owner/developer, in addition to the land under surrender for which Transferable Development Rights (TDR) is to be granted, remains unbuildable, the Authority may grant *Transferable Development Rights* (TDR) for such remaining unbuildable land also, if the owner/developer hands it over free of cost and free from all encumbrance and encroachment. If such land forms a part of the proposed roads then such land shall be utilised for road side parking, garden, open space or road side amenities including bus bays, public toilets or any compatible use as the Authority may decide and if such land is from the proposed reservation then same shall be included in such proposed reservation and shall be developed for the same purpose. The Authority shall quarterly report such cases to Government.

5 UTILISATION OF TRANSFERABLE DEVELOPMENT RIGHTS (TDR): --

- 5.1 A holder of DRC who desires to use FAR credit therein on a particular plot of land shall attach valid DRCs to the extent required with his application for development permission. Proposal for *Transferable Development Rights* (TDR) utilisation shall be submitted along with the documents as may be prescribed by the Authority or by the Government from time to time.
- 5.2 The DRCs shall be issued by the Authority in multiple of 100 sqm. and 5sqm. Sum total of all the DRCs issued shall be the eligible DRC granted to the owner, rounded to the nearest unit of 5sqm. With an application for development permission, where an owner seeks utilisation of DRC, he shall submit the DRC to the Authority in multiple numbers to the extent of area proposed to be utilised.
- 5.3 The *Transferable Development Rights* (TDR) generated from any land shall be utilised on any receiving plot anywhere in CBD or non-CBD area earmarked on the Master Plan but subject to restrictions if any as per the Zoning regulations. The equivalent quantum of *Transferable Development Rights* (TDR) to be permitted on receiving plot shall be governed by the formula given below: -

$$\text{Formula: } X = (R_g/R_r) \times Y$$

Where,

X = Permissible Utilisation of TDR/DR in sqm on receiving plot

R_g = Rate for land in Rs. per sq.m. as per Circle Rate of generating plots in generating year

R_r = Rate for land in Rs. per sq.m. as per Circle Rate of receiving plot in generating year

Y = TDR debited from DRC in sq.m.

5.4 Utilisation of Transferable Development Rights (TDR) and Road Width Relation: -

- 5.4.1 Notwithstanding anything contained in any Policy, the total maximum permissible built-up area and utilisation of *Transferable Development Rights* (TDR) on receiving plot shall be, subject to the road width, as prescribed below: -

Base FAR	Existing	Plot Size (Sq m/ Bigha /Katha)									
	Road										
	Width	Plot Size up to 670 sq m (2.5 K)		Plot Size above 670 sq m up to 1338 sq m (2.5 K- 1 B)		Plot Size above 1338 sq m up to 6690 sq m (1B- 5 B)		Plot Size above 6690 sq m (5 B) upto 13380 (10B)		Plot Size above 13380 sqmt(5B)	
	(m)										
		FAR	Max TDR Loading	FAR	Max TDR Loading	FAR	Max TDR Loading	FAR	Max TDR Loading	FAR	Max TDR Loading
100	Above 3.6 upto 4.5	125	0	125	0	125	0	125	0	125	0
125	Above 4.5 upto 6.6	125	0	125	0	125	0	150	0	150	0
150	Above 6.6 upto 8.0	150	0	160	0	175	0	175	0	175	0
150	Above 8.0 upto 15	150	0.2	175	0.4	225	0.4	225	0.4	275	0.4
160	Above 15	175	0.3	200	0.5	250	0.5	275	0.5	300	0.5

5.4.2 Condition of utilisation of TDR.

- The maximum permissible TDR that can be utilised on any plot, provided that specific area-based restriction on the maximum permissible utilisation limit prescribed by Zoning Regulations shall remain in force, like Heritage zone, Green belt areas.
- FAR loading limit on such plot (Maximum Building potential) shall be the Base FAR +Premium FAR+ TDR + Additional FAR if any. The additional FAR except for Base FAR shall be granted on payment of charges at the rate of Premium FAR as per the existing bye-laws. The sum total of permissible FAR on any plot shall be limited to 325.
- The quantum of maximum permissible TDR loading mentioned above shall include slum TDR (wherever applicable) and DRC generated from such slum land and/or DRC generated from other locations shall be limited to the permissible limit mentioned above.
- If a plot is situated on an internal road having a dead end within 50 mt. from the main road, then such plot shall be treated as fronting on the main road for the purpose of utilisation of TDR.

5.4.2 The additional FAR assigned for Affordable Housing Scheme, Urban Renewal Scheme, etc. as provided in existing building rules/bye-laws shall be in addition to the maximum permissible FAR, however, the sum total of all FAR shall be limited to 325 on a plot.

5.4.3 Areas Restricted from Utilisation of Transferable Development Rights (TDR): -

Utilisation of *Transferable Development Rights* (TDR) shall not be permitted in the following areas: -

- i. Agricultural / no development / Green Belt zone / Eco Zones/ Water bodies/ Heritage zones in the Master Plan. These areas shall be treated exclusively as TDR emanating zones.
- ii. Area within the flood control line or flood prone areas as specified in the Master Plan or Specified by the Water Resource Department.
- iii. Where the permissible basic Zonal FAR is 50 or less.
- iv. Area having developmental prohibition or restrictions imposed by any notification issued under the provisions of any Central/State Act or under any Regulations.

6 GENERAL STIPULATION: -

6.1 DRC shall be issued by the Authority(As defined in the Town and Country Planning Act and GMDA Act)as certificates in value of 100 sqm.and 5sqm.printed in an appropriate form as prescribed by the Authority.Such a certificate shall be a “transferable and negotiable instrument”.All transactions relating to transfer or utilisation of DRC shall be recorded at the reverse body of the DRC.

6.2 The Authority shall issue DRC or reject the issuance of DRC within a period of 30 days from the date of application.

6.3 Transfer of DRC-

6.3.1 The Authority shall allow transfer of DRC in the following manner-

- i. In case of death of the holder of DRC, the DRC shall be transferred only on production of the documents as may be prescribed by the Government from time to time, after due verification and satisfaction regarding title and legal successor.
- ii. If a holder of DRC intends to transfer it to any other person, he shall endorse the transfer at the reverse body of the DRC indicating the name of the Transferee. The transaction shall be done under the signature of both Transferor and Transferee.
- iii. If a holder of DRC intends to transfer it to any other person, he shall endorse the transfer at the reverse body of the DRC indicating the name of the Transferee. The transaction shall be done under the signature of both Transferor and Transferee,the Certificate shall be available for use only to the holder/transferor.A record of DRC indicating transferred TDR shall be maintained by Government in a digital platform and shall be entered by the Transferor of the DRC online. A sum of Rs. 500 (Rupees Five Hundred) only shall be paid to the authority as transaction fee.

6.4 The Authority may refrain the DRC holder from utilizing the DRC in the following circumstances:

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- i. Under direction from a competent Court.
- ii. Where the DRC is obtained
 - a) by producing fraudulent documents
 - b) by misrepresentation of facts.
 - c) For misrepresentation of facts penal provisions as provided in Assam Town and Country Planning Act, 1959 / GMDA Act 1985 / existing building rules/bye-laws, shall apply.

6.5 Any DRC may be utilised on one or more plots or lands whether vacant, or already developed fully or partly by erection of additional storeys, or in any other manner consistent with the prevailing Master Plan and existing building rules/bye-laws.

6.6 Additional constructions shall be allowed on existing or under-construction buildings with the additional FAR under this policy. In such a case, the parking norms will have to be fulfilled. Such benefits on under-construction developments shall be allowed only after the production of a structural stability certificate of the proposed construction from Civil engineering Department of IIT/NIT/Govt. Engineering Colleges. Additional constructions allowed on existing building shall be limited to one additional storey.

6.7 The Setbacks of the building – the existing setbacks including front setback may be allowed for higher floor/floors and necessary relaxation to that extent may be granted by the Authority subject to compliance of all fire requirements and fire NOCs. In any case existing approved setbacks shall not be reduced.

7 APPLICABILITY OF THIS POLICY: -

- i. This Policy shall come into effect from the date of publication of this Notification in the Official Gazette.
- ii. The policy shall extend to the master plan areas of whole of Assam except for areas under Autonomous Districts, provided that if any District Council desires that all or any of the provisions of this Policy should apply to the Autonomous District concerned, a notification may be issued to that effect and this Policy shall then extend to that Autonomous District subject to such exceptions or modifications as may be specified in the notification.

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